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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,470

10/25/2005

Martin Auer

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EXAMINER

TO, TUAN C

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

05/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,470	<b>Applicant(s)</b> AUER ET AL.	
	<b>Examiner</b> TUAN C. TO	<b>Art Unit</b> 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/19; 4/3/09</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 9-18 are rejected under 35 U.S.C. 102 (e) as being anticipated by  
Frimberger et al. (US 7,017,700 B2).

With respect to claims 9, 17, and 18 Frimberger et al. teaches a system/method for detecting rollover situation in such a way that restraint, such as belt tighteners or head airbags can be released at the right time during rollover.

Frimberger et al. teaches “a decision stage which generates a triggering decision for the vehicle safety device if a travel behavior of the vehicle which is critical for safety is determined, based on dynamic vehicle movement parameters”. As illustrated in figure 3, the signals from the sensors Y, Z, AR are evaluated by a threshold value generator SB which forms a dynamic rollover threshold S. The triggering decision is made if the rollover criterion W or angular speed W is exceeded the dynamic rollover threshold S (see column 3, lines 29-31, and lines 44-46).

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Frimberger et al. teaches "a plausibility checking stage for checking plausibility of the triggering decision; wherein, the plausibility checking stage evaluates the triggering decision as implausible and prevents actuation of the vehicle safety device if an evaluation of time profile of parameters that are sensed in the vehicle reveals that the travel behavior which is critical for safety corresponds, within predefinable limits, to a desired travel behavior, which is brought about in a deliberate and controlled fashion by a vehicle operator". In Frimberger et al., a checking for plausibility of the triggering decision is made (e.g. the restraint device is triggered) when the rollover criterion  $W$  exceeds the dynamic rollover threshold  $S$  (see column 3, lines 44-46), and a checking for implausibility to prevent actuation of the vehicle safety device is evaluated when the rollover criterion  $W$  does not exceed the threshold  $S$  (no restraint system is triggered as illustrated in column 3, lines 51-61).

It is noted that while disclosing the decision stage that generates a triggering decision for the vehicle safety device, Frimberger et al. inherently discloses that the triggering decision is made corresponding to an affirmative decision to deploy and that the checking for plausibility of the triggering decision is made after the affirmative decision.

As to claim 10, Frimberger et al. teaches checking the plausibility of the triggering decision using a parameter which is indicative of rate of change in the travel behavior (see column 3, lines 26-31; the angular speed  $W$  is used in the decision of triggering the restraint device).

As to claim 11, Frimberger et al. teaches that in case of vehicle rollovers which are preceded by a driving situation with a large inclination detected, the occupant is in the unfolding zone of an airbag (head airbag, curtain), then the airbag will not be activated under any circumstances. In this situation, Frimberger et al. teaches the triggering decision is made as implausible when the large inclination is detected when the occupant is in the unfolding zone of an airbag.

As to claims 12-14, in Frimberger et al., in case of plausibility, the rollover criterion  $W$  exceeds the dynamic rollover threshold  $S$ , then a rollover is detected and the restraint device is triggered. Therefore, in case of implausibility, the rollover criterion  $W$  is below the rollover threshold  $S$ , then the restraint device is prevented to trigger (see column 3, lines 59-61).

As to claim 15, Frimberger et al. teaches that the vehicle safety device can be triggered in a reversible fashion (see column 3, lines 44-61).

As to claim 16, Frimberger et al. further teaches that the vehicle safety device is a seatbelt pretensioner (see column 1, lines 34-36).

### ***Response to Amendment***

The applicant's request for continued examination has been fully considered. The examiner has reviewed the amendment to claims 9, 17, and 18, however, these claims and their dependent claims would not be patentable over Frimberger because Frimberger still suggests the features as now currently added in the claims.

***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan C To/

Primary Examiner of Art Unit 3663/3600

March 4, 2009

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